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FILED

SEP 21 2009

DEPARTMENT OF REAL ESTATE
BY: *A. Guesy*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 EXCEL LENDING INC. doing business)
13 as E-Modification; and)
14 STEVE BENARD STREIFEL,)
15 individually and as designated)
16 officer of Excel Lending Inc.,)
17 and SYLVIA DELAROSA,)
18 Respondents.)

No. H-36248 LA

A C C U S A T I O N

18 The Complainant, Robin Trujillo, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against EXCEL LENDING INC.; STEVE BENARD STREIFEL, individually
21 and as designated officer of Excel Lending Inc., and SYLVIA
22 DELAROSA, alleges as follows:

23 1.

24 The Complainant, Robin Trujillo, acting in her official
25 capacity as a Deputy Real Estate Commissioner of the State of
26 California, makes this Accusation against EXCEL LENDING INC.,
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1 STEVE BENARD STREIFEL and SYLVIA DELAROSA.

2 2.

3 All references to the "Code" are to the California
4 Business and Professions Code and all references to "Regulations"
5 are to Title 10, Chapter 6, California Code of Regulations.

6 3.

7 License History

8 A. EXCEL LENDING INC. ("ELI"). At all times
9 mentioned, Respondent ELI was licensed or had license rights
10 issued by the Department of Real Estate ("Department") as a real
11 estate broker. On September 18, 2008, ELI was originally
12 licensed as a corporate real estate broker. At all times
13 mentioned herein, Respondent ELI was authorized to act by and
14 through Respondent STEVE BENARD STREIFEL as ELI's broker
15 designated pursuant to Business and Professions Code (hereinafter
16 "Code") Sections 10159.2 and 10211 to be responsible for ensuring
17 compliance with the Real Estate Law. On January 23, 2009, ELI
18 became non broker affiliated when STREIFEL cancelled his
19 designated officer license.
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21 B. STEVE BENARD STREIFEL. At all times mentioned,
22 Respondent STEVE BENARD STREIFEL ("STREIFEL") was licensed or had
23 license rights issued by the Department as a real estate broker.
24 On February 27, 1996, STREIFEL was originally licensed as a real
25 estate broker and on September 18, 2008, became the designated
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1 officer of ELI. On January 23, 2009, STREIFEL cancelled as
2 designated officer of ELI.

3 C. SYLVIA DELAROSA ("DELAROSA") is the corporate
4 President and sole shareholder of ELI. DELAROSA was originally
5 licensed as a real estate salesperson on August 22, 2002.
6 DELAROSA was employed by broker Juan C. Granados from October
7 02, 2006 to November 14, 2009; by Contact One Realty Group from
8 November 15, 2007 to February 27, 2009; and employed by Financial
9 Freedom Funding Inc. from February 28, 2009 to date. At no time
10 during the audit period set forth below, was DELAROSA licensed by
11 ELI.

12 Brokerage

13 4.

14 At all times mentioned, in the City and County of
15 Fontana, ELI, STREIFEL and DELAROSA acted as real estate brokers
16 conducting licensed activities within the meaning of Code
17 Sections 10131(d) and 10131.2. ELI and STREIFEL engaged in the
18 business of a loan modification and an advance fee brokerage.
19 For compensation or in expectation of compensation and for fees
20 often collected in advance, Respondents contacted lenders' loss
21 mitigation departments on behalf of distressed homeowners seeking
22 modification of the terms of their home loans including, but not
23 limited to, repayment plans, forbearance, Deed-In-Lieu of
24 Foreclosure, partial claims, and reduction in principal or

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1 interest. ELI, STREIFEL and DELAROSA handled the following loan
2 modifications during the audit period:

Loan Modifications	Advance Fees Collected
137	\$338,405.88

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7 Audit Examination

8 5.

9 On May 4, 2009, the Department completed an audit
10 examination of the books and records of ELI pertaining to the
11 loan modification and advance fee activities described in
12 Paragraph 4, which require a real estate license. The audit
13 examination covered a period of time beginning on January 1, 2007
14 to December 31, 2008. The audit examination revealed violations
15 of the Code and the Regulations as set forth in the following
16 paragraphs, and more fully discussed in Audit Report LA 080163
17 and the exhibits and work papers attached to said audit report.
18

19 Bank and Trust Accounts

20 6.

21 At all times mentioned, in connection with the
22 activities described in Paragraph 4, above, ELI accepted or
23 received funds including funds in trust (hereinafter "trust
24 funds") from or on behalf of actual or prospective parties,
25 including lenders, borrowers, homeowners for loan modifications
26 handled by ELI. Thereafter ELI made deposits and or
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1 disbursements of such trust funds. From time to time herein
2 mentioned during the audit period, said trust funds were
3 deposited and/or maintained by ELI in the bank accounts as
4 follows:

5 "Excel Lending Inc.
6 Account No. 942-2634114
7 Wells Fargo Bank
8 Portland, OR 97228 (B/A #1)

9 "Excel Lending Inc. dba E-Modifications
10 Account No. 188-9200703
11 Wells Fargo Bank
12 Portland, OR 97228 (B/A #2)

13 Audit Violations

14 7.

15 In the course of activities described in Paragraphs 4
16 and 6, above, and during the examination period described in
17 Paragraph 5, Respondents ELI, STREIFEL and DELAROSA acted in
18 violation of the Code and the Regulations in which Respondents:

19 (a) From April through June 2008, while not licensed as
20 real estate brokers, DELOSROSA, and ELI performed licensed
21 activities including conducting modifications of home loans for
22 homeowners and for collecting advance fees from homeowners
23 without obtaining a corporate real estate broker license, with
24 respect to the following homeowners:

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Homeowners/Borrowers	Start Date	Fees Collected
A. Gonzalez	04-1-08	\$1,595
D. Vargas	05-27-08	--
Cervantes/Munguia	07-16-08	\$1,700
Mary Moore	06-12-08	\$3,000
Total Fees Collected		\$6,2950

(b) (1) ELI and STREIFEL commingled trust funds and personal funds by depositing trust funds in the form of advance fees collected for loan modifications into ELI's general operating account, in violation of Code Sections 10145 and 10176(e) and Regulation 2832, for homeowner/borrowers Daniel Roberts, Mungui Ignacio, Mark Moore and Martha Alvarez.

(b) (2) ELI, STREIFEL and DELAROSA converted trust funds by depositing trust funds in the form of advance fees collected for loan modifications into DELAROSA's personal bank account, in violation of Code Sections 10145, 10176(i) and Regulation 2832, for homeowner/borrowers Daniel Roberts, Mungui Ignacio, Mark Moore and Martha Alvarez.

(c) ELI and STREIFEL failed to maintain a control record in the form of a columnar record in chronological order of all trust funds including advance fees collected in connection

1 with loan modifications, deposited and disbursed, in violation of
2 Code Section 10145 and Regulation 2831.

3 (d) ELI and STREIFEL failed to maintain a separate
4 record for each beneficiary or transaction, thereby failing to
5 account for all advance fees collected in connection with loan
6 modifications, in violation of Code Section 10145 and Regulation
7 2831.1.

8 (e) ELI and STREIFEL failed to perform a monthly
9 reconciliation of the balance of all separate beneficiary or
10 transaction records maintained pursuant to Regulation 2831.1 with
11 the record of all trust funds received and disbursed from the
12 bank accounts used for the deposit of advance fees for loan
13 modification services, in violation of Code Section 10145 and
14 Regulation 2831.2.

15 (f) ELI and STREIFEL. B/A #1 and B/A #2 were not in
16 the name of broker ELI, as trustee at a bank or other financial
17 institution, nor designated as trust accounts although trust
18 funds were deposited into these bank accounts, in violation of
19 Code Section 10145 and Regulation 2832(a).

20 (g) (1) ELI and STREIFEL permitted DELAROSA, president
21 and owner of ELI, a real estate salesperson not licensed under
22 STREIFEL to be an authorized as the sole signatory on B/A #1, in
23 violation of Code Section 10145 and Regulation 2834; and

24 (g) (2) Toma Nicolae Ghiran, an unlicensed and unbonded
25 person, ELI's operations manager, was not a signatory yet
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1 possessed on-line access to ELI's bank accounts and passwords
2 which he accessed in order to disburse trust funds to pay
3 personal expenses including but not limited to telephone charges
4 and child support payments, in violation of Code Section 10145
5 and Regulation 2834; and,

6 (g) (3) STREIFEL was not a signatory on either B/A #1 or
7 B/A #2, in violation of Code Section 10145 and Regulation 2834.

8 (h) ELI and STREIFEL collected advance fees within the
9 meaning of Code Section 10026 from homeowners seeking loan
10 modification services wherein ELI failed to provide a pre-
11 approved advance fee agreement from the Department in the form of
12 a no objection letter, in violation of Code Section 10085 and
13 Regulation 2970, for the aforesaid homeowner/borrowers. Said no
14 objection letter was first issued by the Department on December
15 26, 2008.

16 (i) ELI and STREIFEL failed to establish and maintain a
17 trust account at a bank or other recognized financial institution
18 in the name of the broker for deposit of advance fees collected
19 by ELI, in violation of Code Section 10146.

20 (j) ELI and STREIFEL, with reference to the lack of an
21 advance fee agreement, ELI failed to provide a complete
22 description of services to be rendered provided to each
23 prospective tenant in 10 point type font and failed to provide an
24 allocation and disbursement of the amount collected as the
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1 advance fee, in violation of Code Section 10146 and Regulation
2 2972.

3 (k) ELI and STREIFEL used the fictitious names of "E-
4 Modification Inc., "E-Modif" and "Meritage Investments", to
5 conduct licensed activities including a loan modification and an
6 advanced fee brokerage, without first obtaining from the
7 Department a license bearing said fictitious business name, in
8 violation of Code Section 10159.5 and Regulation 2731.

9 (l) Streifel had no system in place for regularly
10 monitoring his compliance with the Real Estate Law especially in
11 regard to establishing, systems, policies and procedures to
12 review trust fund handling, in violation of Code Sections
13 10159.2, 10177(h) and Regulation 2725; and

14 (m) After notice and subpoena on March 5, 2009, ELI
15 failed to retain all records of ELI's activity during the audit
16 period requiring a real estate broker license, in violation of
17 Code Section 10148.

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19 Discipline Statutes

20 8.

21 The conduct of Respondents ELI, STREIFEL and DELAROSA
22 described in Paragraph 7, above, violated the Code and the
23 Regulations as set forth below:

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PARAGRAPH	PROVISIONS VIOLATED
7(a)	Code Section 10130 (ELI and DELAROSA)
7(b)	Code Sections 10145, 10176(e), 10176(i) and Regulation 2832
7(c)	Code Section 10145 and Regulation 2831
7(d)	Code Section 10145 and Regulation 2831.1
7(e)	Code Sections 10145 and Regulations 2831.2
7(f)	Code Section 10145 and 2832(a)
7(g)	Code Section 10145 and 2834
7(h)	Code Section 10085 and Regulation 2970
7(i)	Code Section 10146
7(j)	Code Section 10146 and Regulation 2972
7(k)	Code Section 10159.5 and Regulation 2731
7(l)	Code Sections 10159.2 and 10177(h) and Regulation 2725 (STREIFEL)
7(m)	Code Section 10148 (ELI)

1 These violations are cause for the suspension or revocation of
2 the real estate license and license rights of Respondents ELI,
3 STREIFEL and DELAROSA under the provisions of Code Sections
4 10176(e), 10176(i), 10177(d) and/or 10177(g).

5 Negligence

6 9.

7 The overall conduct of Respondents EXCEL LENDING INC.,
8 and STEVE BENARD STREIFEL constitutes negligence and is cause for
9 the suspension or revocation of the real estate license and
10 license rights of said Respondents pursuant to the provisions of
11 Code Section 10177(g).

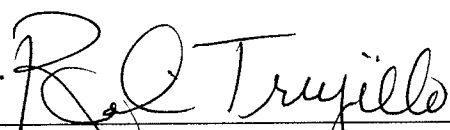
12 Supervision and Compliance

13 10.

14 The overall conduct of Respondent STEVE BENARD STREIFEL
15 constitutes a failure on said Respondents' part, as officer and
16 former officer designated by a corporate broker licensee, to
17 exercise the reasonable supervision and control over the licensed
18 activities of ELI as required by Code Section 10159.2 and
19 Regulation 2725, and to keep ELI in compliance with the Real
20 Estate Law, with specific regard to trust fund and credit report
21 fee handling, escrow accounting and escrow procedure, and
22 mortgage and loan brokering, and is cause for discipline of the
23 real estate license and license rights of all Respondents
24 pursuant to the provisions of Code Sections 10177(d), 10177(g)
25 and 10177(h).
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against the license and license rights of Respondents
5 EXCEL LENDING INC., STEVE BENARD STREIFEL and SYLVIA DELAROSA,
6 under the Real Estate Law (Part 1 of vision 4 of the Business and
7 Professions Code) and for such other and further relief as may be
8 proper under other applicable provisions of law.

9 Dated at Los Angeles, California

10 this 28 day of August 2009. 
11 Deputy Real Estate Commissioner

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23 cc: Excel Lending Inc.
24 c/o Steve **Benard** Streifel D.O.
25 Sylvia Delarosa
26 Robin Trujillo
27 Sacto
Sam Delgado
Audits - Anna Hartoonian